

01/22/02

01-25-02

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Intellectual Property Law
 Patents • Trademarks
 Copyrights • Licensing
 Litigation • Trade Secrets
 Computer Law • Biotechnology
 Unfair Competition • Enforcement

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Attorney Docket No. T9376.DIV2

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January 22, 2002

Box Patent Application
 Commissioner for Patents
 Washington, D.C. 20231

Dear Sir:

10978 U.S. PRO
 10/055783
 01/22/02

Transmitted herewith for filing under 37 C.F.R. § 1.53(b) is a patent application entitled
 "Method of Implanting an Intervertebral Spacer," comprising:

- X A continuing application as indicated below:
- _____ Continuation of prior application no. _____, filed
 [date], which is hereby incorporated by reference in the enclosed
 application in its entirety.
- _____ This continuation constitutes the enclosed true and complete copy of
 said prior application, together with any instructions or amendments
 provided herein or herewith.
- X Divisional of prior application no. 09/592,072, filed June 12, 2000, which
 is hereby incorporated by reference in the enclosed application in its entirety.
- X This divisional constitutes the enclosed true and complete copy of
 said prior application, together with any instructions or amendments
 provided herein or herewith.
- _____ Continuation-in-part of prior application no. _____, filed
 [date] which is hereby incorporated by reference in the enclosed
 application in its entirety.
- _____ A patent application claiming the benefit of U.S. Provisional Application No.
 /, filed ***[date]***, which is hereby incorporated by reference in the
 enclosed application in its entirety.

CERTIFICATE OF MAILING BY EXPRESS MAIL LABEL NO. ET243162726US

Mailed: January 22, 2002

I hereby certify that this correspondence, and all enclosures indicated, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above in an envelope addressed to: Box Patent Application, Commissioner for Patents, Washington D.C. 20231.

Respectfully submitted,

Karl R. Cannon
 Karl R. Cannon
 Attorney Registration No. 36,468
 Attorney for Applicant

☒ Thirty-eight (38) pages of specification, claims and abstract from the prior application.

☒ Four (4) sheets of ☒ formal/___informal drawings.

☒ Declaration, Power of Attorney and Petition.

___ Newly Executed

☒ Copy from prior application (when a continuation or divisional) (37 C.F.R. § 1.63(d))

___ Associate or Substitute Power of Attorney

___ Microfiche Computer Program (Appendix)

___ Nucleotide and/or Amino Acid Sequence Submission

___ Computer Readable Copy

___ Paper Copy (identical to computer readable copy)

___ Statement verifying identity of above referenced copies

Also enclosed are:

☒ An Assignment from Peter Pal Varga, M.D. and James A. Ogilvie, M.D. to Ortho Development Corporation (including assignment cover sheet)

☒ An Information Disclosure Statement under 37 C.F.R. §1.97 accompanied by a Form PTO-1449.

☒ A Preliminary Amendment, and the fee calculation set forth below is based upon the claims as constituted by said amendment.

☒ A return receipt postcard under MPEP § 503, indicating specially itemized enclosures.

☒ A Certificate Under 37 C.F.R. §3.73(b) to Establish Right of Assignee to Take Action.

☒ A Certificate of Express Mailing certifying a filing date of January 22, 2002, by use of Express Mail Label No. ET243162726US.

___ A Declaration Claiming Small Entity Status for ***[independent inventor, etc.]***, under 37 C.F.R. §§ 1.9 and 1.27.

- ☐ A paper entitled "Establishment of Small Entity Status" under 37 C.F.R. § 1.28(a), along with a copy of the declaration claiming small entity status under 37 C.F.R. §§ 1.9 and 1.27 filed in the prior application.
- ☐ Certified copy of priority document(s) (if foreign priority is claimed).
- ☐ A copy of the extension of time simultaneously filed in the prior application.

Instructions and Averments:

- ☐ Incorporation by Reference (if a copy of the declaration from prior application is included). The entire disclosure of the prior application, from which a copy of the declaration is supplied herewith as referenced above, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☒ A Declaration Claiming Small Entity Status was filed in the prior application and such status is still proper and desired.
- ☐ Cancel in this application original claims _____ of the prior application before calculating the filing fee.
- ☐ Pursuant to 37 C.F.R. § 1.78(a)(2), please amend the specification as follows:

[Attorney to fill in here if this is needed]

FEES

- ☐ No Fees are enclosed.
- ☒ Check No. 4624 in the amount of \$494.00 which represents the filing fee for this application.

The fees have been calculated as set forth below.

PATENT APPLICATION FEE CALCULATION TABLE							
			SMALL ENTITY			LARGE ENTITY	
	NO. FILED	NO. EXTRA	RATE	FEE	OR	RATE	FEE
BASIC FEE				\$ 370	OR		\$ 740
TOTAL CLAIMS	20 - 20 =	0	X 9 =	\$ -	OR	X 18 =	\$
IND. CLAIMS	5 - 03 =	2	X 42 =	\$ 84	OR	X 84 =	\$
Presentation of Multiple Dependent Claims			+ 140 =	\$ -	OR	+ 280 =	\$
ASSIGNMENT RECORDATION FEE (1)			+ 40 =	\$ 40	OR	+ 40 =	\$
			TOTAL:	\$ 494	OR	TOTAL:	\$

The Commissioner is hereby authorized to charge payment of the following fees associated with this communication, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

- _____ An original and one copy of this letter are enclosed.
- _____ Any additional filing fees required under 37 C.F.R. § 1.16.
- _____ Any patent application processing fees under 37 C.F.R. § 1.17.

The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

- _____ Any patent application processing fees under 37 C.F.R. § 1.17.
- _____ The issue fee set forth in 37 C.F.R. § 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b).
- _____ Any filing fees under 37 C.F.R. § 1.16 for presentation of extra claims.

CORRESPONDENCE ADDRESS

X Please address all future correspondence to:

Customer No. 20449

X Please direct all future telecommunications to:

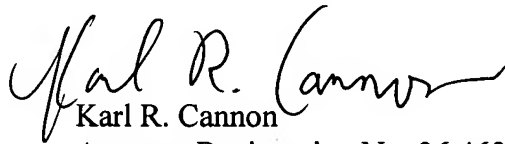
Karl R. Cannon
Clayton, Howarth & Cannon, P.C.
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

X Please refer to the following attorney docket number in all future correspondence and telecommunications:

T9376.DIV2

Dated this 22 day of January, 2002.

Respectfully submitted,


Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, Utah 84091

KRC/kd
Enclosures

_____, Frame _____, or for which a copy thereof is attached.

B. ☐ A chain of title from the
[inventor(s)/applicant(s)] of the
[patent/trademark application] identified
above, to the current assignee as shown below:

1. From: _____ To: _____

The document was recorded in the Patent and
Trademark Office at Reel _____, Frame _____, or for
which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the Patent and
Trademark Office at Reel _____, Frame _____, or for
which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the Patent and
Trademark Office at Reel _____, Frame _____, or for
which a copy thereof is attached.

C. ☒ Copies of assignments or other documents in the
chain of title are attached.

The undersigned (whose title is supplied below) is empowered
to sign this certificate on behalf of the assignee.

I hereby authorize the attorneys of Clayton, Howarth & Cannon,
P.C., to insert said serial number when known.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this 22 day of JANUARY, 2002.

Ortho Development Corporation

By B. Bartholomew
Brent Bartholomew
Vice President & CFO

S:\CHC Files\T 9--\T93--\T9376\Div2\cert of assigned.frm